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December 2, 2002

Via Hand Delivery and Fax (202-219-3923)

Jeff Jordan, Esq.
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E. St. NW
Washington, DC 20463

RE: MUR 5321 – Mary Robert

Dear Mr. Jordan:

We submit this letter on behalf of our client, Mary Robert, in response to the National Republican Congressional Committee's complaint concerning loans from Janet Robert to the Janet Robert for Congress Committee. Contrary to the implications in the complaint, Mary Robert did not make a "contribution" to her daughter, Janet Robert, for the purpose of influencing Janet Robert's campaign. Rather, Mary Robert decided, for both personal and estate planning reasons, to give to each of her ten children an \$800,000 unconditional gift. Each of the children was free to use the gift for any purpose they wished. Because of this, there is no evidence that the gift to Janet Robert was made for the purpose of influencing a federal campaign, and there is no reason to believe that any provision of the Federal Election Campaign Act of 1971, as amended (the "FECA") has been violated.

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Applicable Law

The FECA states that “[n]o person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.” 2 U.S.C. § 441a(a)(1)(A). The Act goes on to define “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person *for the purpose of influencing an election for Federal office.*” *Id.* § 431(8)(A)(i) (emphasis supplied); *see also* 11 C.F.R. 100.7(a). If “personal funds” of a candidate are given to a campaign, however, they do not count as “contributions” and there is no limit on the amount that can be given. 11 C.F.R. § 110.10(a). “Personal funds” are defined, *inter alia*, as “gifts of a personal nature which had been customarily received prior to candidacy.” *Id.* § 110.10(b)(2).

Relevant Facts

Mary Robert is 83 years old. Her husband, Bruce Robert, had founded Siegel-Robert, Inc. in 1945, and she and her husband had accumulated considerable wealth over the years. The Roberts had eleven children, ten of whom, including Janet, are now living.

Beginning in the 1960s, Mary and Bruce Robert made numerous gifts to their children of stock in Siegel-Robert, Inc. and/or money.^{1/} When Bruce died in 1996, Mary continued to make gifts to each of the children. Over the course of the years, the value of the gifts has ranged from approximately \$3,000 per year to hundreds of thousands of dollars per year for each child. While the gifts were generally given to each child in equal amounts, in some years different amounts were

^{1/} Siegel-Robert, Inc., is a privately held corporation and it has and will redeem its stock from any of the shareholders for the fair market value of the stock at the time of the redemption. As such, the stock is a fairly liquid asset.

given in an effort to equalize the total number of shares of Siegel-Robert, Inc. stock each child and his or her families had been given.^{2/}

As of June 30, 2002, Mary Robert had given or sold most of her Siegel-Robert, Inc. stock to her children. At that point her total liquid assets had a value in excess of \$40,000,000. In addition, she receives annual income in excess of _____ from her assets and a marital trust. Upon reviewing the nature of her assets, her income, her overall estate planning objectives, and her business and personal needs, Mary determined that she had no need for a portion of the money she had. In addition, she understood that there would be an estate tax benefit if she gifted a portion of the money to her children and then lived for an additional three years. See I.R.C. § 2035(b) (gift taxes paid on gifts made more than three years prior to death are not includable within the estate.)^{3/} Finally, she wanted her children to enjoy the use of the money without having to wait for her death. In light of these considerations, on August 29, 2002, and September 3, 2002, Mary gave each of her children \$800,000, for a total gift of \$8,000,000.^{4/} See Att. A. This is apparently the money at issue in the National Republican Congressional Committee's complaint.

Analysis

^{2/} For example, the older children would have accumulated more shares because they and their families had received gifts for a longer period of time than the younger children. The different amounts given, done largely in 1997, were an effort to equalize this disparity.

^{3/} If Mary were to die within three years of making the gift, there would be no disadvantage to the estate compared to not making the gift at all.

^{4/} After Mary had informed a number of her children that she was going to make the gifts to each of them, Janet called Mary's book-keeper to request her check. Janet's check was issued on August 29, 2002 (the Thursday before Labor Day), and the other checks were issued on September 3, 2002 (the day after Labor Day).

As evidenced by the above description of facts, Mary Robert did not give Janet Robert the \$800,000 at issue for the purpose of influencing Janet Robert's election. Rather, Mary made equal, unconditional gifts to all 10 of her children after a consideration of her age, the nature and amount of her assets, the applicable gift and estate tax rules, and her personal desire that her children receive substantial portions of her estate while she is still alive. This was consistent with the practice of both Mary and her late husband Bruce over the years. There is no evidence that it was done to influence a federal campaign.

In light of these facts, the complaint's characterization of MURs 4128/4362 as "identical and indistinguishable" from the facts at hand is simply wrong. In MURs 4128/4362, the respondents (the candidate, Grant Lally; his committee; his parents, Lawrence and Ute Lally; and Lally & Lally) were involved in several sham transactions and loans in order to allow the candidate's parents to make contributions that had the appearance of being the candidate's personal funds. For example, it was found that \$116,000 of what the candidate had characterized as "personal funds" earned from the sale of his share of real estate investment property to his parents were not from a bona fide sale of the property. It was also found that \$18,000 of what the candidate had characterized as "personal" funds from the sale of his corvette to his parents were not from a bona fide sale of the automobile. In addition, \$74,000 in loans allegedly made from the candidate's personal funds to his campaign committee came from payments the candidate received from Lally & Lally and were again found to be improper contributions. The candidate and his parents were also alleged to have made false and inaccurate statements to the FEC regarding these transactions.

Unlike MURs 4128/4362, Mary has not given money to Janet Robert, or anyone else, under the guise of sham personal and real property transactions, or any other guise. To the

contrary, Mary made equal, unconditional gifts to all her children for her own personal and estate planning purposes, and never resorted to any schemes, devices, or mischaracterizations to convey the gifts. More importantly, there is unequivocal evidence that Mary gave each of her ten children the same \$800,000. No such fact was present in the Lally MURs. If one were to believe that Mary was trying to make an \$800,000 "contribution" to Janet's campaign, one would also have to believe that she was willing to spend an extra \$7,200,000 to do it.^{5/} That is quite a bit larger than any potential FEC fine could be. Instead, the transaction was just what it appears to be -- a family gift, consistent with the customs of the past, and made in equal amounts to each sibling. This does not fall within the definition of "contribution" under the FECA.

Conclusion

For the foregoing reasons, we respectfully submit that there is no reason to believe that a violation of the FECA has been committed by Mary Robert. Accordingly, we request that the MUR concerning her be dismissed. We look forward to your favorable determination on this matter. In the meantime, if you have any questions, please feel free to contact me.

Sincerely,



James M. Cole

Encl.

^{5/} In addition, approximately \$4 million will be paid in gift tax in April 2003, raising the total expenditure for the gifts to approximately \$12 million.

Bryan Cave LLP

24.04.08 31.35

EXHIBIT A

24 04 400 3136

AN

Mrs. Bruce G. Robert 9-93 Commerce Bank NA 385 2159
34 Country Life Acres
St. Louis, MO 63131-1403 St. Louis, Missouri 63017

PAY TO THE ORDER OF Janet Robert Date 8/29/2002
\$**800,000.00
Eight Hundred Thousand and 00/100 DOLLARS

Gift

Mary Robert

VOID VOID

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT: THE COLOR SHOULD DISAPPEAR WHEN RUBBED AND REAPPEAR WHEN RELEASED.

SECURITY FEATURES LISTED ON BACK

24 04 400 313

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Mrs. Bruce G. Robert 9-93
34 Country Life Acres
St. Louis, MO. 63131-1403

Commerce Bank NA 385
St. Louis, Missouri 63017

2165

PAY TO THE ORDER OF **Patricia Somerville** Date **9/3/2002**

\$ 800,000.00

Eight Hundred Thousand and 00/100 DOLLARS

[Handwritten: Mary Robert]

Gift

[Handwritten: (Signature)]

For online item ASAT (BB) 85-01 IECK www.asatpolice.com

SECURITY FEATURES LISTED ON BACK

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT. THE COLOR SHOULD DISAPPEAR WHEN RUBBED AND REAPPEAR WHEN RELEASED.

24 04 40 33

161

Mrs. Bruce G. Robert 9-93 Commerce Bank NA 385 2166
34 Country Life Acres
St. Louis, MO 63131-1403 St. Louis, Missouri 63017

PAY TO THE ORDER OF Thomas Robert Date 9/3/2002
\$ 800,000.00

Eight Hundred Thousand and 00/100 DOLLARS

Gift

Mary Robert

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT - THE COLOR SHOULD DISAPPEAR WHEN RUBBED AND IT SHOULD LAST AT LEAST 30 DAYS

SECURITY FEATURES LISTED ON BACK

6513 004 40 44

Mrs. Bruce G. Robert 34 Country Life Acres St. Louis, MO 63131-1403		9-93	<i>Original Linda Chilton</i>	Commerce Bank NA 385 St. Louis, Missouri 63017	2167
PAY TO THE ORDER OF Bruce P. Robert		Date 9/3/2002		\$ **800,000.00	
Eight Hundred Thousand and 00/100				DOLLARS	
Gift		<i>Mary Robert</i>			

VOID VOID VOID

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT. THE COLOR SHOULD DISAPPEAR WHEN RUBBED, AND REAPPEAR WHEN TELL #500.

24 04 43 54

16 41

Mrs. Bruce G. Robert 9-93 Commerce Bank, NA 385 2168
34 Country Life Acres
St. Louis, MO 63131-1403
St. Louis, Missouri 63017

PAY TO THE ORDER OF Joan Grasso Date 9/3/2002
\$ 800,000.00

Eight Hundred Thousand and 00/100 DOLLARS

Gift

Mary Robert

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT. THE COLOR SHOULD DISAPPEAR WHEN RUBBED AND REAPPEAR WHEN RELEASED.

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Mrs. Bruce G. Robert 9-93
34 Country Life Acres
St. Louis, MO 63131-1403

Commerce Bank, NA 385
St. Louis, Missouri 63017

2169

PAY TO THE ORDER OF Barbara Lea

Date 9/3/2002

\$ **800,000.00

Eight Hundred Thousand and 00/100***** DOLLARS

Gift

Mary Robert

VERIFY THAT THIS IS AN ORIGINAL BY RUBBING THE FINGERPRINT TO THE RIGHT. THE COLOR SHOULD DISAPPEAR WHEN RUBBED AND REAPPEAR WHEN RELEASED.

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Mrs. Bruce G. Robert
34 Country Life Acres
St. Louis, MO 63131-1403

9-93

Commerce Bank NA 385
St. Louis, Missouri 63017

2170

PAY TO
THE ORDER
OF

Jeanne Swift

Date 9/3/2002

\$ 800,000.00

Eight Hundred Thousand and 00/100

DOLLARS

Gift

Mary Robert

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PAY TO
THE ORDER
OF

Judith Robert

Date : 9/3/2002

\$ **800,000.00 :

Eight Hundred Thousand and 00/100***** DOLLARS

Gift

Mary Robert

VERIFY THAT THIS IS AN ORIGINAL. IT MUST BE THE ORIGINAL PART TO THE SUIT. THE COCO SHOULD DISAPPEAR WHEN RUBBED AND REAPPEAR WHEN RELEASED.

24 04 40 3444

16V

Mrs. Bruce G. Robert 9-93 Commerce Bank NA 385 2172
34 Country Life Acres
St. Louis, MO 63131-1403 St. Louis, Missouri 63017

PAY TO THE ORDER OF Linda Honigfort Date 9/3/2002
Eight Hundred Thousand and 00/100 \$ **800,000.00 DOLLARS

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02 SEP -3 PM 4:13

Gift Mary Robert

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